

Regular Session, 2009

ACT No. 89

HOUSE BILL NO. 199

BY REPRESENTATIVE ST. GERMAIN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To enact R.S. 40:1601, relative to novelty lighters; to prohibit the sale and distribution of
3 certain novelty lighters; to provide for definitions; to provide for exemptions; to
4 provide authority for the seizure, forfeiture, and destruction of certain novelty
5 lighters; to provide for penalties; to provide for the deposit of proceeds from
6 penalties collected into a certain state trust fund; to provide for an effective date; and
7 to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 40:1601 is hereby enacted to read as follows:

10 §1601. Novelty lighters

11 A. For the purposes of this Section, the following definitions shall apply
12 unless otherwise indicated:

13 (1) "Lighter" or "cigarette lighter" means a flame-producing product
14 commonly used by consumers to ignite cigarettes, cigars, and pipes, although the
15 lighter may be used to ignite other materials. The term does not include matches or
16 any other lighting device intended primarily for igniting materials other than
17 smoking materials, such as fuel for fireplaces or for charcoal or gas-fired grills. This
18 term includes novelty lighters.

19 (2) "Novelty lighter" means a mechanical or electrical device typically used
20 for the igniting or lighting of cigarettes, cigars, or pipes that has a toylike
21 appearance, has entertaining audio or visual effects, or resembles in any way in form
22 or function an item that is commonly recognized as appealing, attractive, or intended
23 for use by young children, particularly those ten years of age or younger, including
24 such a device that takes toylike physical forms, including but not limited to toy

1 animals, cartoon characters, cars, boats, airplanes, common household items,
 2 weapons, cell phones, batteries, food, beverages, musical instruments, and watches
 3 or has flashing lights or other entertaining features. Novelty lighters may operate on
 4 any fuel, including butane or liquid fuel.

5 B. The retail, sale, offer of retail sale, gift, or distribution of any novelty
 6 lighter in the state of Louisiana is prohibited.

7 C. This Section shall not apply to:

8 (1) Novelty lighters that were made before January 1, 1980.

9 (2) Novelty lighters that are considered to be collectable items.

10 (3) Any mechanical or electrical device primarily used to ignite fuel for
 11 fireplaces or for charcoal or gas grills.

12 (4) Lighters incapable of being fueled or lacking a device necessary to
 13 produce combustion or flame.

14 (5) The active transportation of novelty lighters through this state.

15 (6) The storage of novelty lighters in a warehouse or distribution center in
 16 this state that is closed to the public for purposes of retail sales.

17 (7) Wholesale or retail dealers selling their existing inventory of novelty
 18 lighters before January 1, 2010, where such inventory was purchased prior to August
 19 15, 2009.

20 (8) Novelty lighters that are in compliance with 16 CFR Part 1210 et seq.

21 D.(1) The fire marshal shall adopt such rules and regulations as are necessary
 22 to implement and enforce the provisions of this Section.

23 (2) The fire marshal or an authorized representative, upon oral or written
 24 demand, may inspect the inventory of novelty lighter manufacturers, wholesale or
 25 retail dealers, and transporters as the fire marshal or the authorized representative
 26 deems necessary to ensure compliance with this Section.

27 (3) Whenever the fire marshal or an authorized representative, law
 28 enforcement personnel, or any authorized personnel discover novelty lighters for
 29 retail or sale or offered for retail sale, gift, or distribution, such personnel are hereby
 30 authorized and empowered to seize and take possession of such lighters. The

1 confiscated lighters shall be turned over to the fire marshal and shall be forfeited to
 2 the state as contraband. Novelty lighters seized pursuant to this Section shall be
 3 destroyed. Destruction shall be witnessed by at least two employees of the fire
 4 marshal and documentation of such destruction shall be made which describes the
 5 contraband, time and location of the destruction, witnesses to the destruction, and
 6 such other information as required by the fire marshal.

7 (4) Any person who knowingly violates the provisions of this Section shall
 8 be fined not more than two hundred fifty dollars per violation.

9 (5) The penalties collected as provided in this Section shall be deposited into
 10 the Louisiana Life Safety and Property Protection Trust Fund within the state
 11 treasury as provided for in R.S. 40:1664.9. The monies shall be deposited to the
 12 credit of the fund and shall, in addition to any other monies available for such
 13 purpose, be available to the state fire marshal to support fire safety and prevention
 14 programs.

15 Section 2. This Act shall become effective on January 1, 2010.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____